

Appl. No. 10/006,992
Amendment dated May 31, 2005
Reply to Office Action of March 29, 2005

PATENT

REMARKS/ARGUMENTS

Claims 18-20 and 36-42 are pending in this rejection and stand substantively rejected. Claims 1-17 and 21-35 were previously canceled. Claim 18 is currently amended. Reconsideration of the pending claims is respectfully requested. Support for the amendment to claim 18 can be found throughout the application, and at least at page 14, lines 1-15.

Rejection under 35 U.S.C. §103

Claims 18-20, 36-42 were rejected under 35 U.S.C. § 103(a) as allegedly obvious over U.S. Patent No. 6,563,105 to Seibel et al. ["Seibel"] in combination with U.S. Patent No. 6,280,435 to Odrich et al. ["Odrich"] and U.S. Patent No. 6,486,943 to Burns et al. ["Burns"]. This rejection is traversed.

According to MPEP 2143, a *prima facie* case of obviousness requires that (i) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to the artisan, to modify the reference or to combine reference teachings; (ii) there must be a reasonable expectation of success; and (iii) the cited reference, or references when combined, must teach or suggest all the claim elements.

Amended independent claim 18 is drawn to a method for determining an accuracy of a gradient array in an optical tissue. The method includes the steps of transmitting an image through the optical tissue, determining local gradients of the array from the transmitted image, integrating along a closed integration path across a portion of the array, and determining the accuracy of the gradient array based on the integration.

As noted in the specification at page 14, lines 11-15, for example, the present invention provides for the capability of detecting bad Hartmann-Shack data along a path by an integration technique such as that presently claimed, which includes determining the accuracy of a gradient array.

Seibel reports image acquisition devices with depth enhancement features. For example, Seibel's devices can characterize surface features of a selected target via an integration

Appl. No. 10/006,992
Amendment dated May 31, 2005
Reply to Office Action of March 29, 2005

PATENT

step. As noted by the Office Action, Seibel does not teach transmitting an image through optical tissue. What is more, Seibel has not been shown to teach or disclose determining the accuracy of a gradient array based on an integration, as presently claimed.

Odrich is cited for the proposition that spatially resolved refractometers can be used to map the surface contour of the cornea. However, Odrich has not been shown to teach or disclose determining the accuracy of a gradient array based on an integration, as presently claimed.

Burns is cited for the proposition that spatially resolved refractometers that transmit images through the cornea are known. Yet, Burns has not been shown to teach or disclose determining the accuracy of a gradient array based on an integration, as presently claimed.

Accordingly, both Odrich and Burns fail to remedy the deficiencies of Seibel. None of these references have been shown to teach or disclose the method step of determining the accuracy of a gradient array based on an integration, as presently claimed.

Claims 19, 20, and 36-42 depend either directly or indirectly, and therefore are allowable as depending from an allowable base claim, as well as for the novel and nonobvious combination of elements they recite. Withdrawal of this rejection is respectfully requested.

What is more, the combination of the cited references has not been shown to teach or suggest other elements recited in the currently pending dependent claims. For example, claim 36 is drawn to a method of determining an accuracy of a gradient array in an optical tissue measurement that includes transmitting a source image from a light source posteriorly through the optical tissues and onto the retina to define the image, wherein the image is transmitted posteriorly through a central region of the cornea, the central region having a size which is significantly less than a pupil size of the eye, and wherein the image is transmitted from the retina anteriorly through the optical tissues. None of the cited references have been shown to teach or suggest this combination of elements.

Appl. No. 10/006,992
Amendment dated May 31, 2005
Reply to Office Action of March 29, 2005

PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



Nathan S. Cassell
Reg. No. 42,396

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 415-576-0300
NSC:nap
60479319 v1